

**ASSEMBLY BILL**

**No. 749**

---

**Introduced by Assembly Member Berg**

February 22, 2007

---

An act to amend Section 1569.72 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 749, as introduced, Berg. Residential care facilities for the elderly: hospice care.

Existing law provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services. Existing law prohibits a residential care facility for the elderly from admitting or retaining a resident who is bedridden, other than for a temporary illness or for recovery from surgery.

This bill would also prohibit a residential care facility for the elderly from admitting or retaining a person who is bedridden, if he or she is receiving hospice care.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1569.72 of the Health and Safety Code
- 2     is amended to read:
- 3     1569.72. (a) Except as otherwise provided in subdivision (d),
- 4     no resident shall be admitted or retained in a residential care facility
- 5     for the elderly if any of the following apply:

1 (1) The resident requires 24-hour, skilled nursing or intermediate  
2 care.

3 (2) The resident is bedridden, other than for a temporary illness  
4 or for recovery from surgery, *or is receiving hospice care*.

5 (b) (1) For the purposes of this section, “bedridden” means  
6 either requiring assistance in turning and repositioning in bed, or  
7 being unable to independently transfer to and from bed, except in  
8 facilities with appropriate and sufficient care staff, mechanical  
9 devices if necessary, and safety precautions, as determined by the  
10 director in regulations.

11 (2) The determination of the bedridden status of persons with  
12 developmental disabilities shall be made by the Director of Social  
13 Services or his or her designated representative, in consultation  
14 with the Director of Developmental Services or his or her  
15 designated representative, after consulting the resident’s individual  
16 safety plan. The determination of the bedridden status of all other  
17 persons with disabilities who are not developmentally disabled  
18 shall be made by the Director of Social Services, or his or her  
19 designated representative.

20 (c) Notwithstanding paragraph (2) of subdivision (a), bedridden  
21 persons may be admitted to, and remain in, residential care facilities  
22 for the elderly that secure and maintain an appropriate fire  
23 clearance. A fire clearance shall be issued to a facility in which a  
24 bedridden person resides if either of the following conditions are  
25 met:

26 (1) The fire safety requirements are met.

27 (2) Alternative methods of protection are approved.

28 (d) ~~(4)~~ For purposes of this section, “temporary illness” means  
29 any illness which persists for 14 days or less.

30 (e) A bedridden resident may be retained in a residential care  
31 facility for the elderly in excess of 14 days if all of the following  
32 requirements are satisfied:

33 (1) The facility notifies the department in writing regarding the  
34 temporary illness or recovery from surgery.

35 (2) The facility submits to the department, with the notification,  
36 a physician and surgeon’s written statement to the effect that the  
37 resident’s illness or recovery is of a temporary nature. The  
38 statement shall contain an estimated date upon which the illness  
39 or recovery will end or upon which the resident will no longer be  
40 confined to a bed.

1 (3) The department determines that the health and safety of the  
2 resident is adequately protected in that facility and that transfer to  
3 a higher level of care is not necessary.

4 (4) This section does not expand the scope of care and  
5 supervision of a residential care facility for the elderly.

6 (f) Notwithstanding the length of stay of a bedridden resident,  
7 every facility admitting or retaining a bedridden resident, as defined  
8 in this section, shall, within 48 hours of the resident's admission  
9 or retention in the facility, notify the local fire authority with  
10 jurisdiction in the bedridden resident's location of the estimated  
11 length of time the resident will retain his or her bedridden status  
12 in the facility.

13 (g) Nothing in this section shall be used for purposes of Section  
14 1569.70 to determine the appropriateness of residents being  
15 admitted or retained in a residential care facility for the elderly on  
16 the basis of health related conditions and the need for these services  
17 until the three levels of care set forth in Section 1569.70 are fully  
18 implemented. This section shall not prohibit the Community Care  
19 Licensing Division of the State Department of Social Services  
20 from continuing to implement the regulations of Article 8  
21 (commencing with Section 87700) of Chapter 8 of Division 6 of  
22 Title 22 of the California Code of Regulations, as promulgated  
23 and approved on February 13, 1990.

24 (h) (1) The department and the Office of the State Fire Marshal,  
25 in consultation with the State Department of Developmental  
26 Services, shall each promulgate regulations that meet all of the  
27 following conditions:

28 (A) Are consistent with subdivisions (a) to (f), inclusive.

29 (B) Are applicable to facilities regulated under this chapter,  
30 consistent with the regulatory requirements of the California  
31 Building Standards Code for fire and life safety for the respective  
32 occupancy classifications into which the State Department of Social  
33 Services' community care licensing classifications fall.

34 (C) Permit residents to remain in ~~home-like~~ *homelike* settings.

35 (2) At a minimum, these regulations shall do both of the  
36 following with regard to a residential care facility that provides  
37 care for six or fewer residents, at least one of whom is bedridden:

38 (A) Clarify the fire and life safety requirements for a fire  
39 clearance for the facility.

- 1 (B) (i) Identify procedures for requesting the approval of  
2 alternative means of providing equivalent levels of fire and life  
3 safety protection.
- 4 (ii) Either the facility, the resident or resident's representative,  
5 or local fire official may request from the Office of the State Fire  
6 Marshal a written opinion concerning the interpretation of the  
7 regulations promulgated by the State Fire Marshal pursuant to this  
8 section for a particular factual dispute. The State Fire Marshall  
9 shall issue the written opinion within 45 days following the request.
- 10 (i) For facilities that care for six or fewer clients, a local fire  
11 official may not impose fire safety requirements stricter than the  
12 fire safety regulations promulgated for the particular type of facility  
13 by the Office of the State Fire Marshal or the local fire safety  
14 requirements imposed on any other single family dwelling,  
15 whichever is more strict.
- 16 (j) This section and any regulations promulgated thereunder  
17 shall be interpreted in a manner that provides flexibility to allow  
18 bedridden persons to avoid institutionalization and be admitted to,  
19 and safely remain in, community-based residential care facilities.